

To: Brown, Jaime[brown.jaime@epa.gov]
From: Carla Morgan
Sent: Tue 10/25/2016 9:48:36 PM
Subject: FW: Superfund Recordkeeping Guidance for Reimbursement
[State Superfund Recordkeeping Guidance.pdf](#)
[9607 Liability.pdf](#)

Jaime:

The CFR site is: 107 (A)(4)(B) of CERCLA, 42 USCA 9607

I also attached the code section from Westlaw.

Take Care,

Carla

Carla Morgan

City Attorney

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From: Carla Morgan
Sent: Friday, October 14, 2016 4:37 PM
To: Arnita Fowlkes; MPH Gerri Browning MD (gcbmd@comcast.net); 'Tia Cauley'; 'greg@crowleyengineering.com'; Patricia Bodnar; Fran Nowacki; Steve Segura
Cc: Irene Vera; Val Gomez; Emiliano Perez; Enedina Rodriguez; Joe Allegretti
Subject: Superfund Recordkeeping Guidance for Reimbursement

Attention Department Heads:

This email is directed to Department Heads who may have incurred costs related to USS Lead Superfund and / or West Calumet Housing Complex. We need to keep records of expenses related to the City's response to USS Lead Superfund so that the City can pursue reimbursement. While reimbursement is not guaranteed, and will likely take years, we have to track expenses to have any chance at all of reimbursement. Thus, we need to go back to the beginning of our response (like back to May 2016, or arguably to 2011) and put together records to demonstrate expenses related to the USS Lead Superfund site and response. Moving forward, we need to keep current records, marked that they are Superfund-related.

Expenses can include labor costs for you and your employees, including regular work time devoted to Superfund related activities; overtime; any outside vendors used; and any purchases related to the response. While the EPA caps reimbursement for local government at \$25,000, the City can also pursue reimbursement beyond this under 107 (A)(4)(B) of CERCLA, 42 USCA 9607, which makes the Responsible Parties liable for:

(B) Any other necessary costs of response incurred by any other person consistent with the national contingency plan;

Key factors in recordkeeping for reimbursement are that *contemporaneous* records be kept, for expenditures that are for : 1) authorized work or purchases; 2) work or purchases which were completed; 3) work or purchases were actually billed to the City; and 4) the City actually paid for the work or purchase.

Items which were already paid for by the federal government, like through a federal grant are not eligible. We also have to avoid "double-counting" expenses. Please see the attached guide, and the links below.

<https://www.epa.gov/emergency-response/local-governments-reimbursement-program>

<https://www.epa.gov/emergency-response/local-governments-reimbursement-program#eligibility>

<https://www.epa.gov/emergency-response/local-governments-reimbursement-program#requirements>

We should probably call a meeting on this at some point, but I wanted to make sure that you were all aware of the need to start tracking these expenses.

Thanks,

Carla

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